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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,941	10/30/2003	Klaus-Dieter Hammer	22135-00017-US	6279

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EXAMINER

O HERN, BRENT T

ART UNIT PAPER NUMBER

1772

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/695,941

Applicant(s)

HAMMER ET AL.

Examiner

Brent T. O'Hern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 26 March 2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election **without traverse** of claims 1-13 and 15-19 in the reply filed on 20 July 2006 is acknowledged.

### *Claim Objections*

2. Claim 19 is objected to because of the following informalities: Applicant uses the abbreviated term "**PVP**". The full unabbreviated term shall be spelled out. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6, 7, 12 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrases "**less than 50 mol%**" and "**less than 30 mol%**" in claims 6 and 7, line 2 of both claims, is vague and indefinite because it is unclear whether the percentage is referring to the total amount of comonomer, copolymer or something else.

The phrase "**wherein the content of vinylpyrrolidone homopolymer and/or polyvinylpyrrolidone copolymer is sufficient to inhibit or suppress mold growth**" in claim 12, lines 1-3 is vague and indefinite because it is unclear whether the addition of as low as 0.1% would inhibit or suppress mold growth or some other value.

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The phrase "**dry sausage**" in claim 16, line 1 is vague and indefinite because it is unclear when a sausage is dry and not dry.

Clarification and/or correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-12, 15 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hammer et al. (US 5,501,886).

Regarding claims 1 and 12, Hammer ('886) teaches a seamless tubular food casing comprising at least one vinyl-pyrrolidone homopolymer and/or vinylpyrrolidone copolymer in admixture with cellulose hydrate (*See Abs., ll. 1-6 and col. 5, l. 11.*).

Regarding claims 2-4, Hammer ('886) teaches a casing wherein the weight ratio of vinylpyrrolidone homopolymer and/or vinylpyrrolidone copolymer to cellulose is from 1:25 to 10:1, which equates to 10-96% for claim #2/(1:5 to 5:1, which equates to 17-83% for claim #3)/(1:4 to 4:1, which equates to 20-80% for claim #4) (*See col. 6, ll. 37-51 wherein Hammer's ('886) from 0.1 to 100% as specifically stated in line 46 clearly falls within all of the above claimed proportions, with corresponding percentage equivalents*).

Regarding claim 5, Hammer ('886) teaches a casing wherein the vinylpyrrolidone copolymer contains comonomer units of  $\alpha$ ,  $\beta$ -ethylenically unsaturated carboxylic acid

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*(See col. 5, ll. 23-30 wherein when  $n=2$  the acid is unsaturated acrylic acid.).*

Regarding claims 6-7, Hammer ('886) teaches a casing wherein the proportion of comonomer units is less than 50 mol %/(30 mol %) *(See col. 6, ll. 29-51 and ll. 8-10, specifically line 46 wherein the weight % is as low as 0.1% for a mean molecular weight from 500,000-1,500,000 is clearly less than 30%/50%).*

Regarding claim 8, Hammer ('886) teaches a casing comprising a fiber reinforcement *(col. 5, l. 12).*

Regarding claim 9, Hammer ('886) teaches a casing wherein the fiber reinforcement comprises a hemp fiber paper *(col. 10, l. 66).*

Regarding claim 10, Hammer ('886) teaches a casing wherein the fiber reinforcement comprises a hemp fiber paper and the paper has, on both sides thereof, a cellulose-hydrate-containing layer, and further wherein at least one vinylpyrrolidone homopolymer and/or vinylpyrrolidone copolymer is present in at least one of said cellulose-hydrate layers *(See col. 10, l. 66 to col. 11, l. 16 wherein the hemp is coated with the solution and col. 4, ll. 23-67 and col. 2, ll. 51-64 wherein the claimed coating polymer is specifically disclosed.).*

Regarding claim 11, Hammer ('886) teaches a casing comprising a cellulose hydrate layer on the outside of the fiber reinforcement containing a vinylpyrrolidone homopolymer and/or vinylpyrrolidone copolymer *(See col. 10, l. 66 to col. 11, l. 16 wherein the hemp is coated with the cellulose hydrate and col. 4, ll. 23-67 and col. 2, ll. 51-64 wherein the cellulose hydrate is disclosed.)*

Regarding claim 15, Hammer ('886) teaches an artificial sausage comprising a

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food casing (*col. 1, l. 9*).

Regarding claim 17, Hammer ('886) teaches a shirred stick (*col. 10, ll. 57-60*).

Regarding claim 18, Hammer ('886) teaches a food casing comprising cellulose and an additive wherein the presence of said additive is in amount sufficient to achieve, as compared to a food casing comprising cellulose without said additive: (i) lower permeation while water vapor permeability is preserved (*See Abs., ll. 3-6, col. 7, ll. 15-18 and col. 8, ll. 15-38 wherein PVP, as interpreted and explained below regarding claim 19, and other additives are added to achieve lower permeation while preserving water vapor permeability*).

Regarding claim 19, Hammer ('886) teaches a casing wherein the additive comprises a viscose with a vinylpyrrolidone homopolymer or copolymer (*See Abs., ll. 1-6 wherein PVP is interpreted as being a viscose with a vinylpyrrolidone homopolymer or copolymer.*).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammer et al. (US 5,501,886) in view of Crevasse (US 5,215,495).

Regarding claim 13, Hammer ('886) teaches wherein the casing is shirred to form a shirred stick (*col. 10, l. 56*), however, fails to teach a length from 5 to 100 m.

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However, Crevasse ('495) teaches a length from 5 to 100 m (*col. 3, ll. 56-59*) for the purpose of encasing a large number of sausages (*col. 3, ll. 58-59*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify Hammer's ('886) casing with a shirred stick from 5 to 100 m as taught by Crevasse ('495) in order to provide encasing for a large number of sausages.

Regarding claim 16, Hammer ('886) teaches the casing discussed above, however, fails to teach a dry sausage comprising a food casing.

However, Crevasse ('495) teaches a dry sausage comprising a food casing (*Abs., l. 2*) for the purpose of providing encased dry sausage with long shelf life (*col. 4, ll. 65-68*).

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicant's invention was made to modify Hammer's ('886) casing with encased dry sausage as taught by Crevasse ('495) in order to provide encased sausage having a long shelf life.

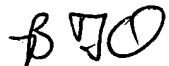
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent T. O'Hern whose telephone number is (571) 272-0496. The examiner can normally be reached on M-F, 9:00-5:30.

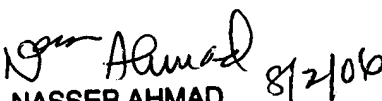
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-2172. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Brent T O'Hern  
Examiner  
Art Unit 1772  
August 1, 2006



NASSER AHMAD  
PRIMARY EXAMINER